IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1529 OF 2005

Sri Arihant Apparels & Ors ...Petitioners

Versus

State of Maharashtra & Ors ...Respondents

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Mr. Gautam Panehal i/b Minesh K.Shah, Advocate for Petitioners

Mr. S.R. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 13TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of proceedings relating to Criminal Case No. 269/SS/2004 which is pending in the Court of learned Metropolitan Magistrate, 27th Court, Mulund, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. It is further

submitted that if the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred by 20.10.2005. It is stated on behalf of the petitioners that the next date in the matter before the trial Court is on 11.10.2005. In view of this statement, the trial Court shall not proceed with the case on 11.10.2005 and for a period of two weeks thereafter.

5. It is also prayed that by order dated 26.8.2005, the learned Magistrate has issued non bailable warrant against the petitioners and the said N.B.W.

be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the petitioners prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the petitioners to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of six weeks from today.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Writ Petition is disposed of in terms of the above order.

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